



SCI FOLLOW-UP REPORT

DIRTY DIRT II

Bogus Recycling of Tainted Soil and Debris

*State of New Jersey
Commission of Investigation*

June 2019

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Bogus Recycling of
Tainted Dirt and Debris

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June 2019

Governor Phil Murphy
The President and Members of the Senate
The Speaker and Members of the General Assembly

The State Commission of Investigation, pursuant to N.J.S.A. 52:9M, herewith submits a report following up on the findings and recommendations of an investigation into improper recycling and the environmentally dangerous disposal of contaminated soil and debris.

Respectfully,

A handwritten signature of Joseph F. Scancarella.

Joseph F. Scancarella
Chair

A handwritten signature of Robert J. Burzichelli.

Robert J. Burzichelli
Commissioner

A handwritten signature of John A. Hoffman.

John A. Hoffman
Commissioner

A handwritten signature of Rosemary Iannacone.

Rosemary Iannacone
Commissioner

Introduction

The State Commission of Investigation has spent considerable time and resources over the years investigating corruption, organized crime intrusion and other unscrupulous activity in New Jersey's solid waste and recycling industries. Most recently, the Commission issued a public report in 2017 revealing the improper and illegal disposal of contaminated soil and construction debris near waterways, residential developments and other inappropriate venues across the State.¹ The investigation revealed significant loopholes in the oversight and regulation of Class B recycling that have enabled unscrupulous "dirt brokers" and others to pose as legitimate recyclers and thus escape licensing requirements and basic background checks like those required for individuals engaged in solid waste operations. In response to the findings and recommendations of the 2017 inquiry, legislation was introduced to address these serious statutory and regulatory deficiencies.²

During the pendency of that legislation, the Commission has acquired evidence establishing that in the continuing absence of a remedy, this deleterious activity persists with significant and serious potential consequences to the environment and public well-being in New Jersey. As a result, the Commission determined that it had a responsibility to prepare this supplemental addendum outlining a summary of additional factual findings and circumstances that have been brought to its attention relative to these matters. At its conclusion, this document also presents a number of additional recommendations for statutory and regulatory reform in this area.

Findings

To date, the Commission's follow-up inquiry has focused on the activities of individuals and entities that have profited from the unregulated and improper disposal of substantial amounts of contaminated soil and debris on private property in Marlboro Township, Monmouth County.

¹ See SCI report, March 2017 – *Dirty Dirt: The Corrupt Recycling of Contaminated Soil and Debris*.

² S-1683 and A-4267

Among those who engaged in this profligate dumping over the last two years is Michael D'Angelo, a New Jersey-based dirt broker previously identified by the SCI as having indiscriminately dumped tons of tainted soil and debris on property being developed for business and residential use along County Route 516 in Old Bridge.³ According to the Commission's 2017 findings, D'Angelo in that instance contracted with the project's developer to supply approximately 36,000 cubic yards of supposedly clean fill to the development site. Acting as a broker, he arranged to be paid \$250 cash per truckload from a company seeking to dispose of dirt and demolition debris. Although D'Angelo provided the developer with paperwork that included lab analyses of the material he intended to deliver, the results were minimized and given only cursory scrutiny. Based upon the SCI's referral of this matter, the state Department of Environmental Protection (DEP) imposed a \$100,000 penalty against D'Angelo and his company.⁴

Since the issuance of the SCI's findings in 2017, and despite the regulatory and judicial actions against him, D'Angelo and others have continued with impunity to engage in detrimental dirt brokering and disposal operations. Specifically, the most recent focus of the SCI's continuing inquiry has been on circumstances surrounding the disposal of prodigious amounts of tainted soil and debris on portions of a 17.5-acre horse farm along Harbor Road in Marlboro.

In late 2017, the farm's elderly owner agreed to undertake a project to fill in and level out a large stretch of low-lying ground on the property. Initially, through March 2018, the owner, in conjunction with the farm's caretaker, arranged to have gravel, sand and dirt delivered to the site, predominately from Staten Island, N.Y., by a dirt and truck brokering company based in Monroe, N.J. By the company owner's account, the firm dumped between 200 and 250 truckloads of material at the property, but the caretaker, Donald Conover, complained that the company was slow. Meanwhile, Marlboro Township authorities, alerted to this activity after

³ Dirt brokers are middlemen engaged in the business of identifying sources of construction/demolition debris and arranging for its removal and ultimate disposition. Those operating on the reputable side of this enterprise generally take steps to ensure that the material is handled properly and gets to a destination authorized to accept it, typically a recycling center or another construction site.

⁴ On appeal, the DEP finding and penalty were affirmed by the Appellate Division of New Jersey Superior County on July 16, 2018. Significantly, the Court ruled that any materials tainted to the extent of exceeding DEP's standards for contamination are considered "solid waste."

several months, cited the farm's owner in January 2018 for violating a municipal ordinance aimed at addressing "soil excavation, transportation, or filling without a permit."

Despite the township's action, large volumes of material continued to be hauled to the property and dumped there. In the spring of 2018, an individual named Derrick Greenberg – identified by SCI investigators as a business partner of Michael D'Angelo – met with Conover and, based on their conversation, offered to orchestrate a separate operation to deliver dirt to the property using vehicles owned by D'Angelo's trucking company, DGRT Services LLC, as well as other trucking companies. The deliveries commenced in May 2018. Investigators determined that the materials brought to the farm by DGRT included at least 40 truckloads of dirt from New York-based Durante Brothers Construction Corp. in Queens.⁵ In total, it is estimated based on eyewitness accounts and SCI surveillances that the farm became the repository for more than 1,500 truckloads of material – some of it contaminated with known or suspected carcinogens – hauled there by a variety of trucking outfits through June of last year. A lot of the dirt and debris was drawn from construction sites and recycling facilities in New York City.

What makes this situation particularly problematic is that New York State maintains different standards than New Jersey as to what constitutes hazardous material and what can properly be brought onto private property, including residential sites. Some of New Jersey's standards as to what is considered clean material are higher than New York's, meaning materials that could be considered "clean" fill in New York may not be "clean" in New Jersey. When questioned by the SCI about his involvement at the Marlboro site, D'Angelo invoked his Fifth Amendment privilege against self-incrimination and refused to provide any substantive answer to a range of questions. His associate Greenberg, meanwhile, testified under oath that he saw D'Angelo at the property on a daily basis for months.

In addition to having his own company's trucks deliver dirt and debris to the Harbor Road location, D'Angelo was part of a small network of individuals who acted as brokers, collecting money from a variety of haulers seeking a place to dispose of such material. For example, he was paid \$100 in cash for each load brought to the site by vehicles owned by another trucking

⁵ Durante Brothers Construction Corp. and its owners were since indicted by Suffolk County, N.Y. authorities for the illegal disposal of contaminated materials in May and June of 2017 in Calverton, N.Y., and Brentwood, N.Y. (both Suffolk County). Disposition of that case is pending.

company based in Linden, N.J. In this circumstance, approximately 400 truckloads of material was brought to the farm from a demolition and construction site located at 100 South Wood Avenue in Linden, Union County, during June 2018. The Linden opportunity was brought to the trucking company's attention by an associate who shared in the under-the-table cash brokering fees.

Another individual identified by SCI investigators as a broker in connection with dumping at the farm received \$100 in cash for every truckload of material brought to the site by drivers working for a Clifton, N.J.-based trucking firm from a variety of construction sites in New York City, primarily Brooklyn. In addition to acting as a broker, this individual, through a trucking firm based in Harrison, N.J., also brought 1,000 loads of soil to New Jersey in 2018, some of which was brought to the Marlboro location from the same Durante Brothers Construction Corp. favored by D'Angelo in Queens.

Neither D'Angelo nor any other brokers and trucking firms responsible for hauling dirt and debris to the farm was able to produce laboratory analytical test reports delineating the level of contamination of the materials dumped there. Confronted by investigators, Conover, the property's caretaker, produced analytical results generated instead by a Staten Island, N.Y., recycling company whose material was never actually brought to the Marlboro site. Conover also provided lab results for material drawn from the demolition location in Linden, but again, this data was related to soil and debris transported not to the Harbor Road farm but to a recycling facility in Carteret, N.J. that handles material contaminated with petroleum byproducts and metals.

At the end of June 2018, Marlboro Township officials and the Freehold Soil Conservation District obtained a court order that finally had the effect of barring trucks from entering and unloading at the site. The township also hired an engineering firm, CME Associates, to conduct an analysis of dirt and other materials dumped at the farm. Company technicians quickly pinpointed several locations on the property that are contaminated with a number of toxic and known or suspected cancer-causing substances, including chlordane (a component used in the production of certain types of pesticide) and polycyclic aromatic hydrocarbons such as

Benzo(a)anthracene and Benzo(a)pyrene (tar and petroleum byproducts) that exceed acceptable New Jersey environmental standards.

CME also determined that much of the material dumped on the farm constitutes solid waste as defined by New Jersey law. As a result of the contamination, the property owner was required to retain a New Jersey Licensed Site Remediation Professional (LSRP) to take corrective action. Subsequent observation and testing by the landowner's LSRP revealed that in some areas on the property, the contaminated material was at risk of leaching into a groundwater aquifer and would have to be removed entirely. The remediation process is currently ongoing.

Recommendations

Under current laws and regulations, New Jersey lacks the authority to properly oversee elements of its recycling industry. As the findings of this and previous inquiries have amply demonstrated, the consequences of this breach in the State's regulatory framework are particularly serious in the area of Class B recycling where unscrupulous individuals with criminal records and/or ties to organized crime have been able to gain a profitable foothold to the detriment of New Jersey's health and environment and in ways that undermine the business interests of legitimate recycling enterprises that are trying to do the right thing.

Pending legislation that has been introduced with bipartisan support in the Senate and Assembly (S-1683 and A-4267) would address these core issues by incorporating Class B recycling into the New Jersey's established statutory A-901 system of licensing and oversight currently in place for the solid waste industry. At a minimum, criminal background checks would be mandated for any individual or entity seeking to participate in Class B recycling, particularly as it applies to the handling, shipment and disposal of soil and debris from construction and demolition operations. Had this requirement been in effect over the last two years, for example, it is quite likely that an individual such as Michael D'Angelo would have been barred from licensure. That is because, in 2009, he was indicted by a state grand jury on charges of securities fraud, theft and money laundering. In that matter, D'Angelo pled guilty to second-degree theft by deception and served a three-year prison sentence. He currently owes the State over

\$600,000 in restitution in connection with this case, along with the \$100,000 fine imposed by DEP for the improper dumping of soil and debris in Old Bridge.

In addition to enacting this legislation, the Senate and Assembly should consider – either as a separate bill or as an amendment – establishing a chain-of-custody requirement regarding laboratory test results to ensure that Class B materials have been properly examined and determined to be safe for disposal. Truckers hauling such materials should be required to be in possession of such test results, as certified and attested to by the trucking company owner. Further, the owner or person(s) responsible for the property to which the material is to be delivered should also be required to possess certified test results. These requirements should be incorporated into DEP's rules and regulations. Further, those who fail to comply with these rules governing possession of certified test results should be subject to criminal penalties.

In preparation of legislative provisions or amendments to accomplish this and to identify potential sources of funding for it, legislators and staff may wish to consult with New York City's Business Integrity Commission (BIC), which regulates elements of the solid waste and trucking industry there. In conducting background checks on company owners, BIC requires that they list all trucks they own and provide proper registration. In order to defray costs, BIC requires that companies engaged in this activity pay a one-time fee to register each truck they own as well as separate registration fee every two years for the company itself.

N.J.S.A. 52:9M-12.2 provides that:

- a. *The Commission shall make a good faith effort to notify any person whose conduct it intends to criticize in a proposed report.*
- b. *The notice required under subsection a. of this section shall describe the general nature and the context of the criticism, but need not include any portion of the proposed report or any testimony or evidence upon which the report is based.*
- c. *Any person receiving notice under subsection a. of this section shall have 15 days to submit a response, signed by that person under oath or affirmation. Thereafter the Commission shall consider the response and shall include the response in the report together with any relevant evidence submitted by that person; except that the Commission may redact from the response any discussion or reference to a person who has not received notice under subsection a. of this section.*
- d. *Nothing in this section shall be construed to prevent the Commission from granting such further rights and privileges, as it may determine, to any person whose conduct it intends to criticize in a proposed report.*
- e. *Notwithstanding the provisions of R.S. 1:1-2, nothing in this section shall be deemed to apply to any entity other than a natural person.*

The following material was submitted pursuant to those statutory requirements.

Donald C. Conover
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South Amboy, NJ 08879

June 7, 2019

State of New Jersey
Commission of Investigation
Lisa N. Cialino, counsel
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Trenton, NJ 08625-0045

Written Response Advocate of Facts

My conduct in question by the New Jersey State Commission of Investigation is only about 56 Harbor Road, Morganville, NJ. The fact I know and can prove I know nothing about said organized crime and solid waste and recycling industries.

I have shown but this office's against wouldn't take any other evidence that I prove so here I am requesting a person to be assigned to submit to or go over facts other than Joseph M. Bredehoft.

The inquiry is at 56 Harbor Road, Morganville, NJ, Marlboro Township and is not as reported.

In Summer/Fall time only between one of the owner(s), Linda Yost and dirt contractor Sammy Vera started a project to fill in and level out a large stretch of paddock. They evaded by front neighbor and township.

I can't make out the SCI's black out information so again, I state, Sammy Vera came between Summer/Fall 2017 until May 2018. Data is recorded with photos. Only two billings sheets and some older invoices was ever turned in by Sammy Vera.

Sammy Vera was requested by both Township and myself but when Mrs. Yost requested per text Sammy Vera took his equipment out in early morning in the dark. That was the end of contact with him.

The Complaint of Sammy Vera taken to slow was from Township Agents not myself. That's when the Township asked other contractor to take over. OPRA report of traffic problem is proof whom was present.

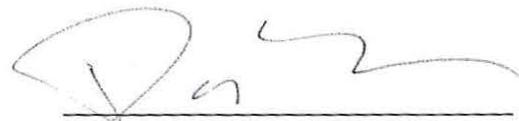
In Spring, 2018, again, I can't read SCI blackout meeting at 56 Harbor Road, Derrick Greenberg show up first time meeting him. Ask if owner's need any help with ongoing project no, but can use sand for stalls and barn, I said.

About other blackouts by SCI's I don't know the ownership of trucks and any other equipment. Do not know the business of dealing dirt and still do not.

I was not confronted by investigators. It was assigned at me at the meeting on site. A representative of Health Department to be point of contact. Again blackout from SCI's analytical was only to be turned in after the completion of stock pile for top soil was done and first level of fill now taken over per townships request by Dean Staknys from Township. Didn't want every day invoice being dropped off at the office.

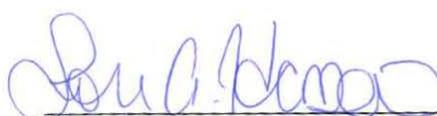
The last part of blackout from SCI's, I don't know from where material came from if it was on a flash drive which was handed into representative and agricultural scientist by mail.

Note, the stock pile for top soil tested it with Rutgers and Health Department. The sand for agricultural was Okayed for exercise paddock area.



DONALD CONOVER

Dated: 6/2, 2019



NOTARY PUBLIC, STATE OF NEW JERSEY

Lori A Hansen
Notary Public
New Jersey
My Commission Expires 8-2-21
No. 2410950



*State of New Jersey
Commission of Investigation*